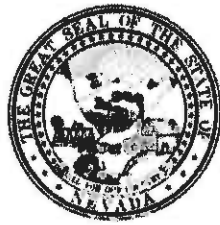


STATE OF NEVADA

BRIAN SANDOVAL
Governor

Members of the Board

PHILIP E. LARSON, Chairman
BRENT C. ECKERSLEY, ESQ., Vice-Chairman
SANDRA MASTERS, Board Member



BRUCE BRESLOW
Director

BRUCE K. SNYDER
Commissioner

MARISU ROMUALDEZ ABELLAR
Executive Assistant

DEPARTMENT OF BUSINESS AND INDUSTRY
**LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD**

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January 19, 2016

**MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT
EMPLOYEE-MANAGEMENT RELATIONS BOARD**

A meeting of the Local Government Employee-Management Relations Board, properly noticed and posted pursuant to the Nevada Open Meeting Law, was held on Monday, January 11, 2016, at the hour of 3:00 p.m., and continuing on Tuesday, January 12, 2016, and continuing on Wednesday, January 13, 2016, and continuing on Thursday, January 14, 2016, at the Local Government Employee-Management Relations Board, 2501 E. Sahara Avenue, Room 203, Las Vegas, Nevada 89104.

The following Board members were present:

Philip E. Larson, Chairman
Brent C. Eckersley, Esq., Vice-Chairman
Sandra Masters, Board Member

Also present:

Bruce K. Snyder, Commissioner
Marisu Romualdez Abellar, Board Secretary
Greg Zunino, Attorney General's Office
Scott Davis, Attorney General's Office

Members of the Public Present:¹

Neal Morton, Las Vegas Review-Journal
Mary Dungan, CCSD
Scott Greenberg, Esq., CCSD
Denise Thistlewaite, Esq., CCSD
Kay Padgham, CREA
Peggy Roser, CREA
Leslie Bouck, ESEA
Frank Flaherty, Esq., ESEA
Brian Jordan, ESEA
Yoni Losr, ESEA
Betty Luna, ESEA
Douglas McCain, ESEA

¹ Not including attorneys of record and witnesses for the hearing (item 4).

Mike McLamire, ESEA
Terri Shuman, ESEA
Susan Smith, ESEA
Autumn Tampa, ESEA
Guillermo Vasquez, ESEA
Tom Wellman, ESEA/NSEA
Nick DiArchangel, NSEA/ESEA
Judi Hamblin, NSEA
Mike Dennie, Teamsters Local 14
Michael Filler, Teamsters Local 14
Albert Ghilarducci, Teamsters Local 14
Angela Ghilarducci, Teamsters Local 14
Tony Green, Teamsters Local 14
Larry Griffith, Teamsters Local 14
Ted Karant, Teamsters Local 14
Larry Lacovara, Teamsters Local 14
Jason Lammers, Teamsters Local 14
Debra Ledon, Teamsters Local 14
Pete Phinney, Teamsters Local 14
Leonard Rodriguez, Teamsters Local 14
Nick Ruberto, Teamsters Local 14
Jarrod Skelton, Teamsters Local 14
Manuel Valenzuela, Teamsters Local 14
Sarah Varela, Esq., Teamsters Local 14

PRELIMINARY MATTERS

1. Call to Order

The Board meeting was called to order by Philip E. Larson, Chairman, on Monday, January 11, 2016, at 3:00 p.m.

2. Public Comment

Autumn Tampa paraphrased her written comments, a copy of which are appended to these minutes. She specifically stated that the Board should not certify the election or at least should stay any order involving certifying Teamsters Local 14 until the courts have ruled in order to avoid chaos. She also stated that there are current negotiations between CCSD and ESEA over a new collective bargaining agreement and that installing Teamsters Local 14 would require that negotiations begin anew and that any bargaining would be from scratch.

Terri Shuman stated the Board ruled in February 2015 to change the standard. She did not understand how and why the Board was able to do so. The Nevada Supreme Court twice ruled that a supermajority was necessary. She further stated that the Board should hold off on the certification as CCSD and ESEA are currently in negotiations.

Guillermo Vasquez stated he is the current Executive Director for ESEA. He requested that the Board continue to recognize ESEA as the bargaining agent of the employees until such time as the courts decide the issue. He also stated that there are more ESEA members than the number of votes received by Teamsters Local 14 in the most recent election and that employees continue to join ESEA. He further stated that there are 320 outstanding cases, which could be in peril, if suddenly the Board changed bargaining agents. He also noted that CCSD has had the upper hand because of the two unions vying for control of the employees and that negotiations are ongoing and that ESEA is working towards a new collective bargaining agreement. If action is taken now by the Board, then that will place the negotiations on hold and employee pay raises and health insurance could be impacted. He then reiterated that the Board should postpone certification until such time as the courts rule on the matter.

Mary Dungan stated she has been employed by CCSD for 15 years and that she has had no raise in eight years. She is a Teamsters organizer. She also stated that the numbers do not tell the whole story. She never approved of the Supreme Court ruling as it is not American. Rather, it should be one person, one vote. If a person does not vote then their vote should not count. She further stated she was suspended without pay four times and had to represent herself. Finally, she stated that the Board should respect the vote of the majority.

Commissioner Snyder also read written comments submitted by Virginia Mills and Wilma McCastle, copies of which are appended to these minutes.

3. Approval of the Minutes

The Board approved the minutes as presented for the Board meeting held December 8-10, 2015.

CASES

HEARING CALENDAR

4. Case 2015-003

John Ducas v. Las Vegas Metropolitan Police Department

The hearing on the case was held on Tuesday, January 12, 2016 and Wednesday, January 13, 2016. Upon conclusion of the hearing the Board deliberated on the case, and upon motion, came to the following decision in favor of Respondent: (1) that Complainant had not been discriminated against on the basis of race; (2) that Complainant had not been discriminated on the basis of physical handicap; (3) that Complainant had not been discriminated against on the basis of personal reasons and/or affiliations; (4) that Complainant had not been discriminated against on the basis of political reasons and/or affiliations; and (5) that each party is to be responsible for its own fees and costs.

5. **Case A1-046128**

City of Las Vegas v. Las Vegas Peace Officers Association

Prior to the hearing the parties presented a Stipulation to Dismiss, which, upon motion, was accepted as presented by the Board, with each party responsible for its own fees and costs.

STIPULATION CALENDAR

6. **Case A1-046092**

Washoe County School Police Officers Association v. Washoe County School District

Upon motion, the Board issued an Order to Show Cause, requesting that the parties file a status report showing cause as to why the case should continue to be deferred and that such reports be filed on or before January 31, 2016. In lieu thereof the parties may file a Stipulation to Dismiss should the case settle before then.

7. **Case 2015-012**

Police Officers Association of the Clark County School District and Michael Thomas v. Clark County School District

Upon motion, the Board granted the Stipulation to Dismiss, as presented, with each party responsible for its own fees and costs.

MOTION CALENDAR

8. **Case 2015-020**

International Union of Elevator Constructors, Local 18 v. Clark County

The Board discussed Respondent's Motion to Stay Proceedings but tabled this item until its February meeting.

9. **Case 2015-022**

Teamsters, Local 14 v. City of Mesquite

Upon motion, the Board granted Complainant's Motion to Amend Complaint.

CALENDAR FOR MISCELLANEOUS MATTERS RELATED TO CASES

10. **Case 2015-030**

Timothy Frabbiele v. City of North Las Vegas

Upon motion, the Board denied the Petition for Declaratory Order as NAC 288.380(1) states that the filing of a Petition for Declaratory Order is limited to employee organizations and local government employers and the Complainant in this matter is

neither of these.

11. Case A1-04573

International Brotherhood of Teamsters, Local 14, AFL-CIO v. Clark County School District and Education Support Employees Association

Frank Flaherty discussed the written objection, previously filed with the Board. He stated that a second runoff election should not have been held as doing so violated the law. He also stated that the Board, after the February runoff election, left ESEA as the bargaining agent and that not even a majority of the bargaining unit voted. He emphasized that the Nevada Supreme Court has twice spoken on the standard to be employed but that the Board in February ordered a second runoff election and that it further changed the standard for determining the winner. He further stated that if Teamsters Local 14 is certified, that such a decision would violate NRS 288.160(4) and NAC 288.110(10)(d). He requested that the Board not certify the election results.

Sarah Varela stated she does not need to convince the Board on the standard to use in the election. She also stated that any instability in labor relations has been caused by the fact that this case has been ongoing for about 14 years and that it is time for this to end. She emphasized that the Board has the power to resolve the representation issue. She further stated that Teamsters Local 14 has received more votes each time an election has been held and in the last election about 82% of the votes were for Teamsters Local 14. She requested that the election be certified and that Teamsters Local 14 be declared the representative of the employees as the employees deserve labor peace and stability.

Scott Greenberg stated that as the employer, it does not matter who is the bargaining representative. A primary issue for CCSD is stability in the workplace, especially given the fact that this case is certain to end up in court. CCSD is concerned over who they will need to deal with at Teamsters Local 14 and who will be the representatives as there are a number of meetings currently scheduled. There is also the issue of what parts of the collective bargaining agreement will remain in effect and which will not. If the Board certifies that Teamsters Local 14 is the winner of the election, then they request that the order be stayed for some period of time in order to give time for the court to intervene on the matter.

Frank Flaherty stated that employees have the right to select their representative but that the legislature has set the proper way of doing so. Teamsters Local 14 violated the window period back in 2002 and that what has transpired since is the antithesis of labor stability. He further stated that ESEA has more members than votes received by Teamsters Local 14. He also stated that the Board needs to wait for the courts to rule first before allowing Teamsters Local 14 in the door in order to help with labor stability.

Sarah Varela stated that each time an election is held Teamsters Local 14 gets an escalating percentage of the vote and that this matters. Certifying the election only requires the Board to look at the objection filed. She also stated that there are reasons why the Board has the discretion to set the standard, namely that the Nevada

Supreme Court's language was dicta as well as the ambiguous meaning of the standard. She further stated that the EMRB does have the authority to hold the second runoff election and to use the standard it employed and that Teamsters Local 14 will meet to work out a transition plan with CCSD.

Scott Greenberg stated that the Board needs to look at whether Teamsters Local 14 has met the prerequisites under NRS 288.260(1), especially given the amount of time since the original petition had been filed.

Frank Flaherty stated that the Nevada Supreme Court's statement on the matter was not dicta. Also, upon the request of Chairman Larson Mr. Flaherty orally summarized his objection.

Upon motion, the Board overruled the written objection filed by ESEA concerning the conduct of the election.

Upon motion, the Board decided as follows with respect to the election held December 5, 2015: (1) that it is certified that a majority of the valid ballots have been cast for the International Brotherhood of Teamsters, Local 14; (2) that the same shall be the exclusive collective bargaining representative of the employees in the bargaining unit; and (3) that this shall be effective upon the later of 30 days from the date of the written order or submission to the Clark County School District of the material required by NRS 288.160(1).

Frank Flaherty offered a motion to stay the Board's order pending the outcome of any court proceedings. If the courts rule that the Board's action was improper, and ESEA is reinstated as the bargaining agent, then ESEA would have to start over. However, it would be effectively destroyed in the interim. Mr. Flaherty mentioned that if a stay is not issued then employees who work for ESEA will need to be laid off. However, it would be effectively destroyed. Additionally, there are outstanding grievances, some of which may be lost in the transition. ESEA would also need to break its lease on its building and would incur a \$70,000 penalty for doing so.

Mr. Flaherty then distributed copies of a court transcript before Judge Cory and went through the transcript for the purpose of showing the Board that Judge Cory expressed doubt as to the Board's actions with respect to the second runoff election. He emphasized that the Board does not have the authority to change the standard as the Board has neither the statutory or regulatory authority to do so. Finally, he stated that a stay would be consistent with NRS 288.160(4), and that although it is not mandated to do so, it would be consistent with it. A stay would also serve the purpose of labor stability.

Sarah Varela stated that a proper place for a motion to stay would be in court and not before the EMRB. She also stated that Teamsters Local 14 is ready to represent the employees in the bargaining unit, has enormous capacity to do so, and that the "parade of horrors" will not happen. She further stated it is Local 14's position that the

EMRB will prevail in court and that the Nevada Supreme Court orders do not preclude the standard employed by the Board for the instant election. Although she stated she would not go through the legal reasoning, she did reiterate it was their belief that the EMRB would prevail in court. Finally, she stated that the process has been delayed enough.

Scott Greenberg stated he appreciates the Board including a 30-day transition period in its motion. He further stated that any stay would be in the discretion of the Board.

Frank Flaherty stated that the so-called supermajority rule is a misnomer and that what it really the standard is a majority of the bargaining unit. He reiterated that the Nevada Supreme Court has twice said that the Board has no right to use another standard and that the Board should stay its order until the judge rules as there is significant risk that the courts may overturn the Board's decision. He committed that ESEA would seek a prompt resolution in the courts on this matter.

After deliberation on the matter, the Board denied the motion by Frank Flaherty.

12. Cases in the Queue for Future Hearing or Settlement Conference

The Board took agreed to hear the following cases and directed the Commissioner to set them for hearing:

2015-013, Eric Brown v. Las Vegas Metropolitan Police Department (for April)

A1-046127, Quick v. Las Vegas Metropolitan Police Department (for May)

The Board took no action on any of the other cases in the queue.

GENERAL AGENCY MATTERS

13. Schedule of Future Board Meetings

The Board reviewed the proposed schedule and made changes to the following for 2016:

<u>Dates</u>	<u>Location</u>	<u>Hearings on Cases</u>
February 9, 10, & 11, 2016	Las Vegas	2015-001
March 1, 2, & 3, 2016	Las Vegas	Not yet assigned
April 12, 13, & 14, 2016	Undetermined	Not yet assigned
May 10, 11, & 12, 2016	Undetermined	Not yet assigned
June 14, 15, & 16, 2016	Undetermined	Not yet assigned
July 12, 13, & 14, 2016	Undetermined	Not yet assigned
August 16, 17, & 18, 2016	Undetermined	Not yet assigned
September 13, 14, & 15, 2016	Undetermined	Not yet assigned
October 11, 12, & 13, 2016	Undetermined	Not yet assigned
November 8, 9, & 10, 2016	Las Vegas	Not yet assigned

December 13, 14, & 15, 2016

Las Vegas

Not yet assigned

14. Report of the Deputy Attorney General

Bureau Chief Greg Zunino gave a short oral report and also discussed the status of the hiring of a Deputy Attorney General to replace Scott Davis, who has been transferred.

15. Reports by the Commissioner

A. Report on Cases Currently Outstanding.

Commissioner Snyder briefly discussed the contents of the log.

B. 2015 Annual Report.

Commissioner Snyder reviewed the contents of the 2015 Annual Report, highlighting in particular the agency's performance with respect to its performance measures.

C. Selection of EMRB for Review by the Sunset Subcommittee.

Commissioner Snyder reported that the EMRB has been selected by the Sunset Subcommittee as one of the boards and commissions to be reviewed this year. He presented the Board with a copy of the letter received in this regard. Commissioner Snyder stated that no date has yet been set for the review.

D. UNLV Extern for Spring Semester – Javier Pacheco.

Commissioner Snyder reported that a second year law student, Javier Pacheco, will extern with the agency beginning on Tuesday, January 19th. He will intern 16 hours per week for 12 weeks. His interest lies in labor law and the agency is excited to have him here for the spring semester.

E. Open forum to be held on January 21, 2016.

Commissioner Snyder mentioned that the agency will be holding its annual open forum on January 21st. The purpose of the open forum is to hear from the user community on ways to improve the agency. A copy of the open forum notice was distributed to the Board members. Commissioner Snyder stated he will report back to the Board on February on the ideas presented at the meeting. Both Chairman Larsen and Board Member Masters stated they planned to attend the meeting in Carson City.

16. Reports by the Board Secretary

A. Status of Annual Filings by Local Governments.

Board Secretary Romualdez Abellar reported that 156 local governments have filed their annual report in accordance with law and that 19 local governments have yet to file. She further stated that she continues to follow-up with those entities who have not yet filed in order to gain compliance. Commissioner Snyder noted that shortly they will issue a final letter to those local governments

who have yet to file, giving them ten days to respond, and that thereafter he will be recommending to the Board that a list of those not yet filing be forwarded to the Attorney General's Office for legal action.

B. Status of Annual Filings by Employee Organizations.

Board Secretary Romualdez Abellar reported that 98 employee organizations have filed their annual report in accordance with law and that 58 employee organizations have yet to file. She further stated that she continues to follow-up with those entities who have not yet filed in order to gain compliance. Commissioner Snyder noted that shortly they will issue a final letter to those employee organizations who have yet to file, giving them ten days to respond, and that thereafter he will be recommending to the Board that a list of those not yet filing be forwarded to the Attorney General's Office for legal action.

17. **Items for Future Agendas**

Vice-Chairman Eckersley requested that the issue of board compensation be placed on the February agenda.

CLOSING MATTERS

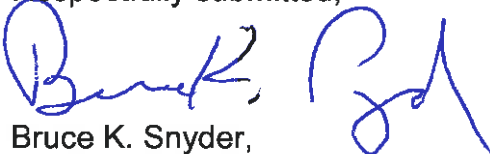
18. **Comments by Board Members**

No comments were made by any Board members.

19. **Additional Period of Public Comment**

No public comment was offered.

Respectfully submitted,


Bruce K. Snyder,
EMRB Commissioner